

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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MAR 10 2003

In the Matter of

Amendment of Section 73.202(b))	
Table of Allotments)	MB Docket No. _____
F M Broadcast Stations)	RM - _____
(Eagle, Fort Morgan, and Hudson, Colorado,)	
Bayard and Bridgeport, Nebraska, and)	
Douglas and Fort Laramie, Wyoming))	

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Assistant Chief, Audio Division
Media Bureau

PETITION FOR PARTIAL RECONSIDERATION

On-Air Family, LLC ("On-Air"), licensee of KBRU-FM, Fort Morgan, Colorado, and Salisbury Broadcasting Coloradn, LLC ("Salisbury"), licensee of KTUN(FM), Eagle, Colorado (together, "Joint Petitioners"), by their counsel, hereby request partial reconsideration pursuant to Section 1.429 of the Commission's Rules, of the dismissal of their Petition for Rule Making. *See* Letter from John A. Karousos to Mark N. Lipp et al. (February 6, 2003) ("Dismissal Letter") (copy attached)

I. In their Petition for Rule Making, the Joint Petitioners proposed that the Commission amend the FM Table of Allotments to (1) delete Channel 269A from Fort Morgan, Colorado and allot Channel 268C to Hudson, Colorado as that community's first local service, and (2) substitute Channel 269C1 for Channel 268C at Eagle, Colorado. These changes require a channel change at Bridgeport, Nebraska. The Joint Petitioners also requested the allotment of two new services, at Bayard, Nebraska and Fort Laramie, Wyoming, with a channel change at Douglas, Wyoming. In the Dismissal Letter, the Staff stated that the Petition was defective in three respects: (i) lack of city-grade coverage to Eagle, Colorado from the proposed reference

MB Docket No. 0111
MB - 714

site; (ii) lack of city grade coverage to Fort Laramie, Wyoming from the proposed reference site, and (iii) a short spacing between the proposed Douglas, Wyoming allotment and a vacant channel at Casper, Wyoming.

2. The Commission erred with respect to the first of these three issues, *i.e.*, the city-grade coverage of Eagle, Colorado. As will be demonstrated herein, the proposed allotment at Eagle satisfies all applicable rules. With respect to the other two issues, the allotments at Bayard, Nebraska, Fort Laramie, Wyoming, and Douglas, Wyoming are not necessary elements of the Petition for Rule Making, and the Joint Petitioners will no longer pursue those allotments. Accordingly, the Joint Petitioners seek reconsideration of the Staff's determination with respect to Eagle, Colorado and amend their Petition to remove the other contested elements.

1. Preliminary Matters

3. This Petition for Partial Reconsideration is filed pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429. It is timely filed within 30 days of the Letter Determination.¹ The Joint Petitioners are an "interested person" under Section 1.429(a), since they are adversely affected by the dismissal of their Petition for Rule Making.

4. The issue on reconsideration is whether the Commission erred in finding that the proposed allotment of Channel 269C1 at Eagle, Colorado violated the community coverage rule (Section 73.315 of the Commission's Rules, 47 C.F.R. § 73.315). The Commission should accept and consider the information presented herein under Section 1.429(b)(3), which permits reconsideration on the basis of facts whose consideration is required in the public interest. *See Mountain Home and Marshall, Arkansas; Thayer, Missouri*, 48 Rad. Reg. 2d 1601 (1981)

¹ See 47 C.F.R. § 1.4(b).

(reconsideration granted under Section 1.429(b)(3) on the basis of engineering showings). The engineering exhibit submitted herewith clearly demonstrates the Commission's error.

II. The Eagle Allotment Complies with the Commission's Rules

5. The Joint Petitioners proposed the allotment of Channel 269C1 at Eagle, Colorado at coordinates 39-14-15 North Latitude, 106-54-13 West Longitude. The Staff found this allotment to be defective, stating that "[t]here is a major obstruction six kilometers from the site of about 430 meters in height, in the direction towards the community." Letter Determination at unnumbered paragraph 2. However, the facts are otherwise. The attached engineering exhibit consists of four terrain profiles between the allotment coordinates and the community of Eagle. These profiles do not evidence any terrain obstruction at six kilometers from the site. Indeed, they demonstrate that the proposed transmitter has line-of-sight to the entire community. Accordingly, the Staff's determination with respect to the Eagle allotment was clearly erroneous and should be reversed.

6. WHEREFORE, the Commission should reconsider its dismissal and reinstate the Joint Parties' Petition for Rule Making as amended herein. Grant of the petition is in the public interest because Hudson, Colorado will receive its first local service. The Joint Petitioners restate their interest in applying for and constructing facilities at Hudson, Colorado. The Commission should promptly issue a Notice of Proposed Rule Making and an Order to Show Cause as described in the Joint Parties' Petition for Rule Making. The following table summarizes the changes requested in the amended Petition:

City	Channel	
	Existing	Proposed
Eagle, Colorado	268C	269C1
Fort Morgan, Colorado	269A	---
Hudson, Colorado	---	268C
Bridgeport, Nebraska	267C	277C

Respectfully submitted,

ON-AJR FAMILY, LLC.
SALISBURY BROADCASTING
COLORADO, LLC

By: 

Mark N. Lipp
J. Thomas Nolan
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600 14th Street, NW
Suite 800
Washington, DC 20005-2004
(202) 783-8400

Their counsel

March 10, 2003



Federal Communications Commission
Washington, D.C. 20554

February 6, 2003

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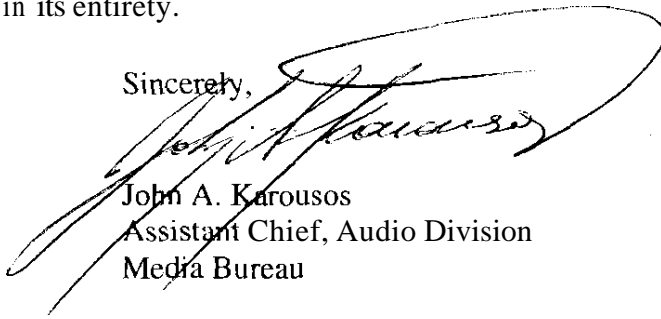
Dear Mr. Lipp:

This is in response to the Petition for Rule Making you filed on behalf of On-Air Family, licensee of Station KBRU-FM, Fort Morgan, Colorado, and Salisbury Broadcasting Colorado, LLC, licensee of Station KTUN-FM, Eagle, Colorado, requesting the substitution of Channel 268C for Channel 269A at Fort Morgan, Colorado, and the reallocation of Channel 268C from Fort Morgan to Hudson, Colorado, and the substitution of Channel 269C1 for Channel 268C at Eagle, Colorado. The petition also proposes the substitution of Channel 277C for Channel 267C at Bridgeport, Nebraska, Channel 229A for vacant Channel 265A at Douglas, Wyoming, and the allotments of Channel 267C1 at Bayard, Nebraska, and Channel 265C2 at Fort Laramie, Wyoming.

We have reviewed your proposal and find that it is unacceptable for consideration as filed. A staff engineering analysis indicates that the proposal to allot Channel 269C1 at Eagle, Colorado will not be able to provide city-grade coverage to the community from the proposed site. There is a major obstruction six kilometers from the site of about 430 meters in height, in the direction towards the community. In addition, the reference coordinates given for allotment of Channel 265C2 at Fort Laramie do not match the Commission's reference coordinates for the community. In any event, from the site you propose, there is a terrain obstruction that will prevent the station from providing city-grade service to the community. With respect to the proposed channel substitution of Channel 229A for Channel 265A at Douglas, Wyoming, our engineering analysis shows that the proposal will be short spaced to vacant Channel 228C1 at Casper, Wyoming, and cannot be site restricted. Available Channels 227A and 228A are similarly short-spaced to the Channel 228C1 allotment of Casper, Wyoming.

Based on the above, we are returning your proposal. You may resubmit the petition, provided you make a showing that fully spaced transmitter sites are available that provide city grade coverage to each community in its entirety.

Sincerely,



John A. Karousos
Assistant Chief, Audio Division
Media Bureau

Enclosure

Engineering Statement
In Support of a
Petition for Reconsideration
KBRU
On-Air Family, LLC. And Salisbury Broadcasting Colorado, LLC.

Methods

All path profile studies were calculated using USGS 3 second terrain data and RadioSoft's Comstudy vcr. 2.2 . Mapping was conducted using MapInfo **ver.** 7.0.

Statement of the Consultants

The engineering portion of the Petition for Reconsideration was prepared for On-Air Family, LLC and Salisbury Broadcasting Colorado, LLC. It was developed by American Media Services, LLC. ("AMS") and may not be used for purposes other than submission to the Commission by On-Air Family, LLC and Salisbury Broadcasting Colorado, LLC.

It may not be reproduced in its entirety, or in part, by anyone (other than from the Commission) without the written consent of AMS.

The information in this application is compiled from the most recent Commission and outside data. AMS is not responsible for errors resulting from incorrect data or unpublished rule and procedure changes.

I personally prepared the foregoing exhibits. I certify to the best of my knowledge, education, and belief the above information is true and correct

For American Media Services, LLC

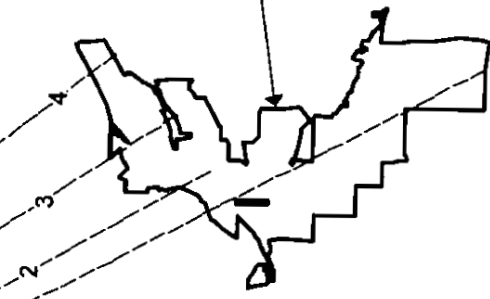
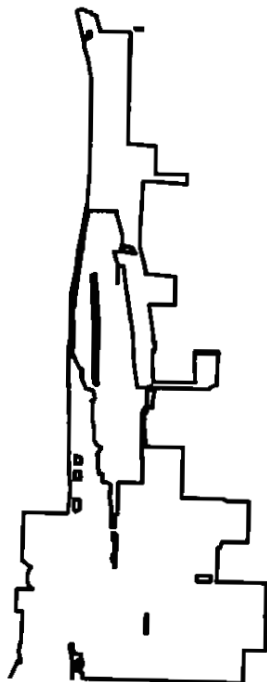

Laramie Guest

March 10, 2003

1311 Chuck Dawley Blvd. Suite 202
Mount Pleasant, SC 29464
(843)972-2200

Proposed

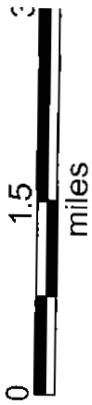
39-45-15~106-54-13



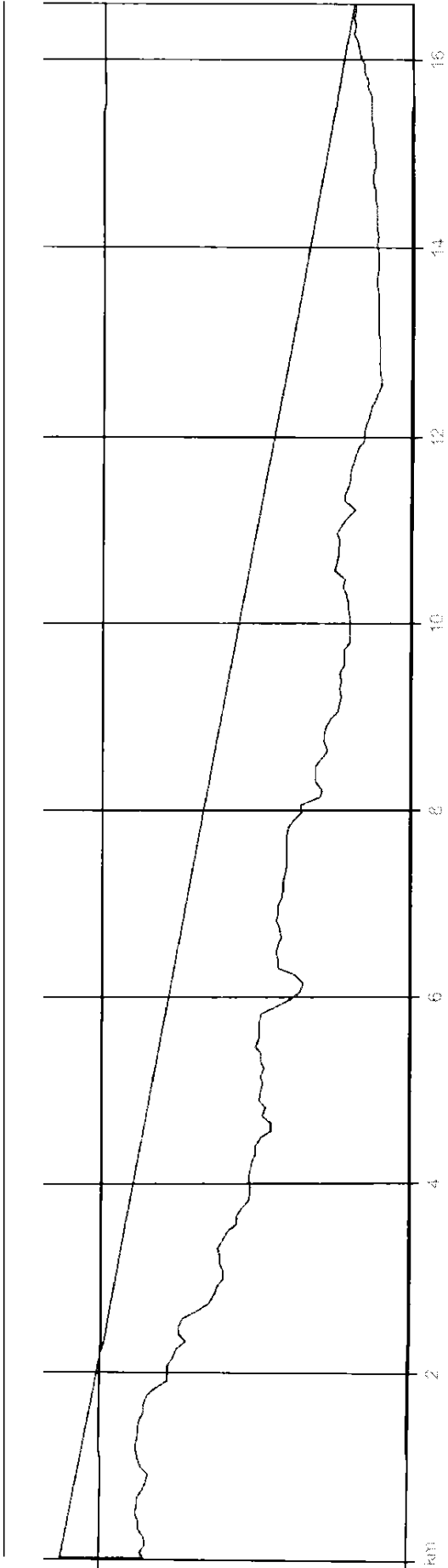
CO Community Boundary

4

KTUN - Path Profile Study
Exhibit E4



ComStudy 2 Path Profile



Proposed

Lat: 39-45-15.0 N
Lon: 106-54-13.0 W
AMSL: 2841 m
Tower AGL: 299 m

Path-#1

Lat: 39-37-20.0 N
Lon: 106-48-45.0 W
AMSL: 2091 m
Tower AGL: 9 m

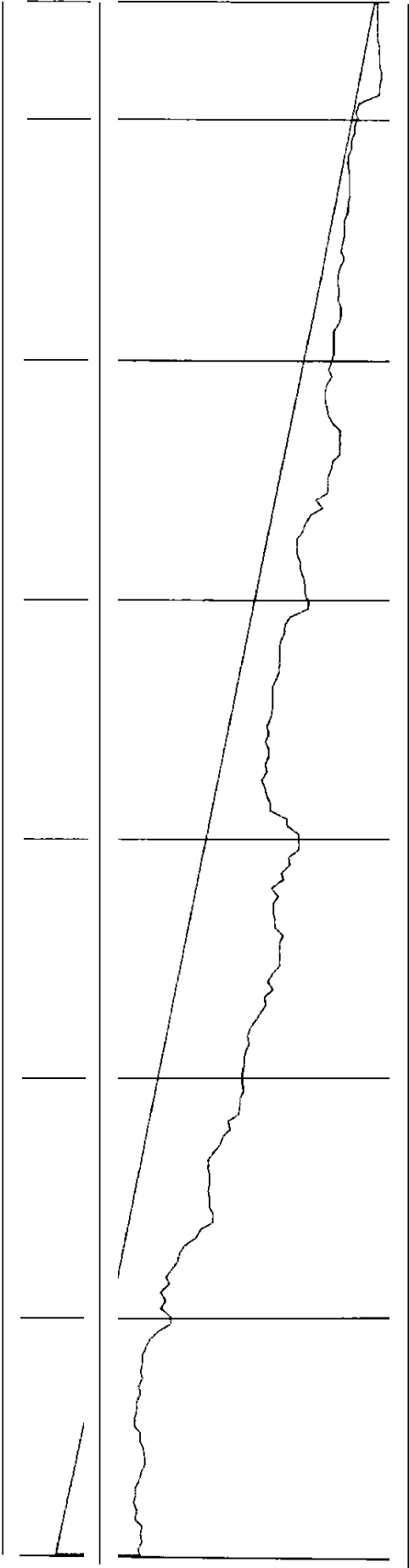
Profile Info

Distance: 16.51 Km
Bearing: 151.95 deg
of points: 200
K value: 1.333

Losses

Base Loss: 100.4 dB

ComStudy 2 Path Profile



Proposed

Lat: 39-45-15.0 N
Lon: 106-54-13.0 W
AMSL: 284.1 m
Tower AGL: 299 m

Path-#2

Lat: 39-39-11.0 N
Lon: 106-49-40.0 W
AMSL: 2010 m
Tower AGL: 9 m

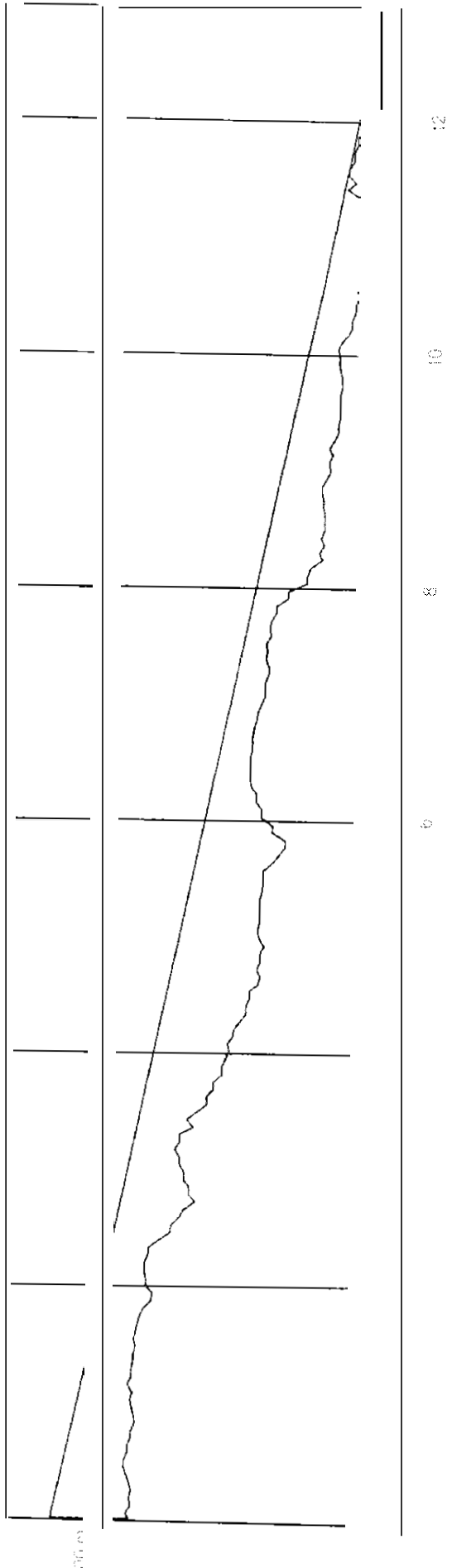
Profile Info

Distance: 12.98 Km
Bearing: 149.99 deg
of points: 200
Gamma value: 1.333

Losses

Base Loss: 98.3 dB

ComStudy 2 Path Profile



Proposed

Lat: 39-45-15.0 N
Lon: 106-04-13.0 W
AMSL: 2841 m
Tower AGL: 299 m

Path-#3

Lat: 39-39-25.0 N
Lon: 106-49-11.0 W
AMSL: 2011 m
Tower AGL: 9 m

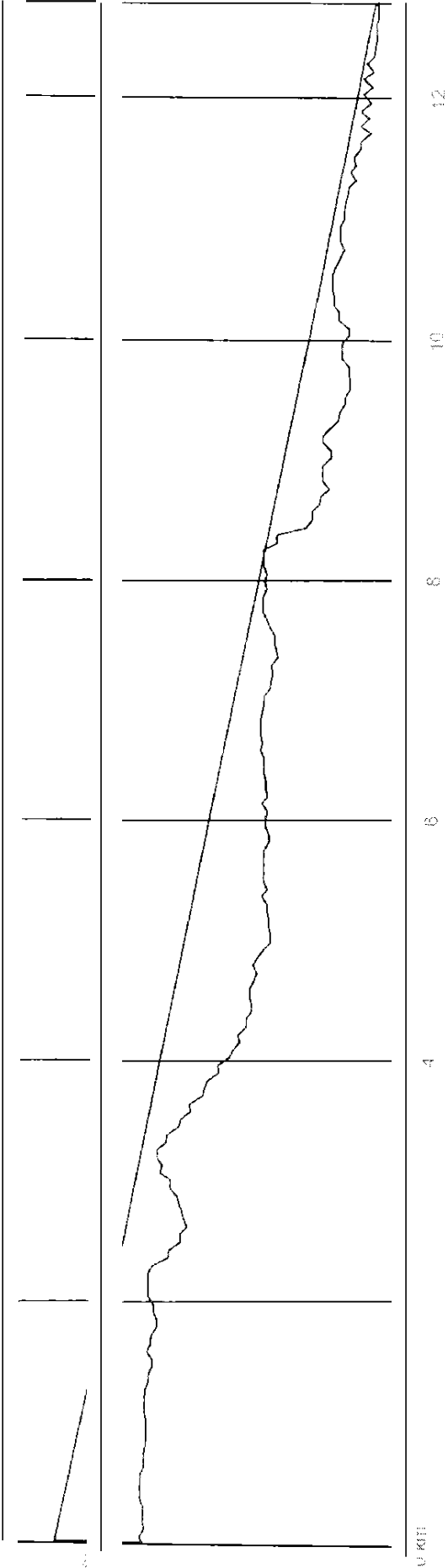
Profile Info

Distance: 12.97 Km
Bearing: 146.40 deg
of points: 200
K value: 1.333

Losses

Base Loss: 93.3 dB

ComStudy 2 Path Profile



Proposed

Lat: 39-45-15.0 N
Lon: 106-54-13.0 W
AMSL: 2841 m
Tower AGL: 289 m

Path-#4

Lat: 39-39-50.0 N
Lon: 106-48-39.0 W
AMSL: 2026 m
Tower AGL: 9 m

Profile Info

Distance: 12.80 Km
Bearing: 141.64 deg
of points: 200
K value: 1.333

Losses

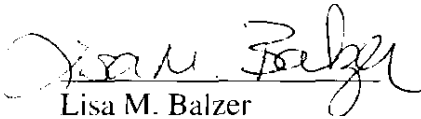
Base Loss: 98.1 dB

CERTIFICATE OF SERVICE

I, Lisa M. Balzer, a secretary in the law firm of Shook, Hardy and Bacon, do hereby certify that I have on this 10th day of March, 2003 caused to be mailed by first class mail, postage prepaid, copies of the foregoing **"PETITION FOR RECONSIDERATION"** to the following:

Tracy Broadcasting Corporation
P.O. Box S32
Scottsbluff, Nebraska 69363
(Licensee of KOLT-FM)

Audrey P. Rasmussen, Esq.
Hall Estill Hardwick Gable Golden & Nelson, PC
1120 20th Street, NW, Suite 700
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(Counsel to Tracy Broadcasting Corporation)


Lisa M. Balzer